



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,238	07/14/2003	Alexandre Bronstein	BRONSTEIN.002	5820
68303	7590	12/24/2009		
PAUL H. HORSTMANN 5440 Tujunga AVE #1009 North Hollywood, CA 91601			EXAMINER HOEL, MATTHEW D	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 12/24/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,238

Applicant(s)

BRONSTEIN, ALEXANDRE

Examiner

Matthew D. Hoel

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-70 is/are pending in the application.
- 4a) Of the above claim(s) 65-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 47 to 51 are rejected under 35 U.S.C. 102(b) as being anticipated by von Ahn, et al. ("CAPTCHA: Using Hard AI Problems for Security," entered as NPL 10-20-2003).
3. As to Claim 47: von Ahn teaches a method of communication comprising generating a response to a communication wherein the response presents a stimulus that is perceptible to one or more human senses and poses a question that pertains to the stimulus (section 1, Introduction, pages 1 & 2, describing the use of Captchas for accessing online polls or starting free e-mail accounts over the Web, constituting a subscription to an online service; these Captchas are visible and the person is asked to type in the distorted letters that they see). von Ahn teaches measuring a response time to the question presented in the response and determining whether the response time indicates that the question was not answered by a human being (section 2, page 5, remark 2 discusses the desirability of placing a time limit on the response and the desirability of using Captchas that can be solved by a human being in a short time). Such a time limit, for example, could be used to prevent a brute-force attack by a

computer. Page 3 compares this to the impossibility of present-day computers solving a 1024-bit encryption key in a reasonable amount of time; the Captcha is designed to prevent a computer from solving the Captcha in a reasonable amount of time while allowing a human to do so. B is defined as a computer program on page 1; the Definition 5 on page 5 of von Ahn mathematically defines a Captcha solvable by a human in a reasonable amount of time, taking into account the running time of the computer program B attempting to solve the problem.

4. As to Claim 48: von Ahn on page 10 in section 4.1 discloses a matching Captcha that requires the user to perform common-sense reasoning by telling if the flipped coin is heads or tails. Again, remark 4 on page 11 discussing the matching Captcha test requires the test to be finished within a reasonable time period to distinguish the human user from a computer.

5. As to Claim 49: von Ahn teaches obtaining a set of material for rendering the stimulus and a question from a data store that holds a set of preselected material for a variety of stimuli and questions that exercise the capability of the human being to perform common sense reasoning. von Ahn on page 10, section 4.1 teaches a distribution of images, which in this case will be heads or tails for a coin flip, or two images. This passage also teaches a distribution of images transformations that are used to distort these images in order to create the Captcha. Page 8, problems P1 and P2 discuss the images and transformations applied to them. Page 8, third paragraph, discusses image distributions and transformation distributions used to keep the distorted Captcha images within a human-recognizable range.

Art Unit: 3714

6. As to Claim 50: von Ahn distorts a visual characteristic of the image as discussed regarding Claims 47 and 49.
7. As to Claim 51: von Ahn on page 5, first paragraph, discusses not using color differentiation in the case of color-blind users. This would be an alternative to the black-and-white transformation of a color image as outlined on page 8, section 3. Remark 3 on page 9 discusses using sounds instead of images, which would be used in the case of the deaf or hearing-impaired.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
10. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over von Ahn in view of Wood (U.S. patent 5,839,902 A).

11. As to Claim 52: von Ahn discloses all of the limitations of Claim 52, as discussed regarding Claim 47, but lacks specificity as to asking a question exercise common-sense reasoning with regards to the capability of the displayed object. '902, however, displays an object, in this case an animal, and asks a common-sense question about the object's ability. 5:6-20: "If the user presses on the image of the lion, thereby pressing on button 22, the processor 26 causes the speaker 29 to produce a digitized roar of the lion. The processor 26 then causes the speaker 29 to say "The lion lives in Africa. Find the lion's home." When the user selects an indicium 16 in response, the processor 26 compares the selected indicium 16 with the correct indicium 16. In this case, the correct indicium 16 would be the indicium representing Africa. If the selected indicium 16 is correct (i.e. represents Africa), the processor 26 causes the speaker 29 to produce the roar of the lion and say "This is Africa, where the lion lives." The processor then waits again for a button 18 to be selected. If the selection is incorrect, the processor 26 causes the speaker 29 to say "This is [name of incorrect selection]. The lion lives in Africa. Find Africa." The processor 26 then waits for another indicium 16 to be selected, and continues as above." The common-sense questions pertain to the lion's diet and running abilities. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the questions about the displayed object's abilities as disclosed by '902 to the Captcha system disclosed by von Ahn. Von Ahn on page 12, section 4.2 teaches Pix, or image displays of animals that are distorted into Captchas. von Ahn's stated goals on pages 1 and 2 is to be able to tell humans from computers, by asking questions that will be difficult if not impossible for computers to answer. Asking a question such as one concerning the ability of a displayed object would have the advantage in actually requiring the answerer to actually know something about the displayed object and how it behaves, which would render the Captcha nearly

impervious to computer methods such as image parsing or machine recognition which only analyze the displayed image.

12. As to Claim 53: von Ahn teaches measuring a response time to the question presented in the response and determining whether the response time indicates that the question was not answered by a human being (section 2, page 5, remark 2 discusses the desirability of placing a time limit on the response and the desirability of using Captchas that can be solved by a human being in a short time). Such a time limit, for example, could be used to prevent a brute-force attack by a computer. Page 3 compares this to the impossibility of present-day computers solving a 1024-bit encryption key in a reasonable amount of time; the Captcha is designed to prevent a computer from solving the Captcha in a reasonable amount of time while allowing a human to do so. B is defined as a computer program on page 1; the Definition 5 on page 5 of von Ahn mathematically defines a Captcha solvable by a human in a reasonable amount of time, taking into account the running time of the computer program B attempting to solve the problem.

13. As to Claims 54 and 55: '902 teaches the visually displayed object being a living thing (5:6-20).

14. As to Claim 56: '902 depicts the living thing using sound (5:33-37).

15. As to Claims 57 and 58: von Ahn depicts the inanimate object, coins in the case of the coin toss example, visually (page 10, section 4.1 on Matchas, as discussed above).

16. As to Claim 59: von Ahn depicts objects using sound Remark 3 on page 9 discusses using sounds instead of images, which would be used in the case of the deaf or hearing-impaired.
17. As to Claim 60: von Ahn distorts a visual characteristic of the image as discussed regarding Claims 47 and 49.
18. As to Claim 61: von Ahn on page 5, first paragraph, discusses not using color differentiation in the case of color-blind users. This would be an alternative to the black-and-white transformation of a color image as outlined on page 8, section 3. Remark 3 on page 9 discusses using sounds instead of images, which would be used in the case of the deaf or hearing-impaired.
19. As to Claim 62: von Ahn discusses parsing human speech on page 9, remark 3.
20. As to Claims 63 and 64: von Ahn teaches obtaining a set of material for rendering the stimulus and a question from a data store that holds a set of preselected material for a variety of stimuli and questions that exercise the capability of the human being to perform common sense reasoning. von Ahn on page 10, section 4.1 teaches a distribution of images, which in this case will be heads or tails for a coin flip, or two images. This passage also teaches a distribution of images transformations that are used to distort these images in order to create the Captcha. Page 8, problems P1 and P2 discuss the images and transformations applied to them. Page 8, third paragraph, discusses image distributions and transformation distributions used to keep the distorted Captcha images within a human-recognizable range.

Claim Rejections - 35 USC § 101

21. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 47 to 64 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As required by page 10 of the recent *Bilski* decision (Court of Appeals for the Federal Circuit, 2007-1130), all claims must be either tied to a particular apparatus or to a physical transformation of matter from one composition to another. Physical transformations are seldom encountered in the gaming arts. One way to tie independent Claims 47 and 52 to a particular apparatus would be to cite how the particular structures of the apparatus carry out the respective steps of the method. Quoting from *ex parte Cornea-Hasegan* (89 USPQ2d 1557) at 1559 & 1560: "The *Bilski* court, following Supreme Court precedent, 1 enunciates the machine-or-transformation test as follows: "A claimed process is surely patent-eligible under §101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *Id.* at 954; *see also In re Comiskey*, 499 F.3d 1365, 1377 [84 USPQ2d 1670] (Fed. Cir. 2007) (discussing the same test from *Diehr*, 450 U.S. 175 [209 USPQ 1]). ¶ Process claims directed to fundamental principles — including laws of nature, natural phenomena, and abstract ideas — mental processes, or mathematical algorithms are unpatentable. *Bilski*, at 951-52. A process claim that is tied to a specific machine may be patentable under §101. *Id.* at 961; *Comiskey*, 499 F.3d at 1377. ¶ While the *Bilski* court declined to elaborate on the "machine" branch of the test, it did provide some guidance on the issue. The court

explains that “the use of a specific machine or transformation of an article must impose meaningful limits on the claim’s scope to impart patent-eligibility” and “the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity.” *Bilski*, at 961-62 (internal citations omitted). As *Comiskey* recognized, “the mere use of the machine to collect data necessary for application of the mental process may not make the claim patentable subject matter.” *Comiskey*, 499 F.3d at 1380 (citing *In re Grams*, 888 F.2d 835, 839-40 [12 USPQ2d 1824] (Fed. Cir. 1989)). ¶ Nominal recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one. *Bilski*, at 957. See also *Benson*, 409 U.S. at 68-69 (comparing *O’Reilly v. Morse*, 56 U.S. (15 How.) 62 (1854), to *The Telephone Cases*, 126 U.S. 1 (1888) – the Court explained that Morse’s eighth claim was disallowed because it failed to recite any machinery, however, Bell’s claim was patentable because it recited specified conditions for using a particular circuit); *In re Schrader*, 22 F.3d 290, 294 [30 USPQ2d 1455] (Fed. Cir. 1994) (holding a simple recordation step in the middle of the claimed process incapable of imparting patent-eligibility under §101); *In re Grams*, 888 F.2d at 839-40 (holding a pre-solution step of gathering data incapable of imparting patent-eligibility under §101).”

2. Quoting from *ex parte Halligan* (89 USPQ2d 1355) at 1364 & 1365: “Process claims 122 and 123 recite a series of process steps that are not tied in any manner to a machine. In other words, these claims do not limit the process steps to any specific machine or apparatus. Thus, the claims fail the first prong of the machine-or-transformation test because they are not tied to a particular machine or apparatus. The

steps of process claims 122 and 123 also fail the second prong of the machine-or-transformation test because the data does not represent physical and tangible objects. Rather, the data represents information about a trade secret, which is an intangible asset. Thus, the process of claims 122 and 123 fails the machine-or-transformation test and is not patent-eligible under 35 U.S.C. §101. Process claims 119 and 120 recite "a programmed computer method" in which each of the process steps is performed by the programmed computer. The issue presented by these claims is whether recitation of a programmed computer suffices to tie the process claims to a particular machine. This is the exact issue that the court in *Bilski* declined to decide. *Bilski* at *11. The court did, however, provide some guidance when it explained that the use of a specific machine must impose meaningful limits on the claim's scope to impart patent-eligibility. *Id.* Claims 119 and 120 recite a method performed on a programmed computer. This recitation fails to impose any meaningful limits on the claim's scope as it adds nothing more than a general purpose computer that has been programmed in an unspecified manner to implement the functional steps recited in the claims. Were the recitation of a "programmed computer" in combination with purely functional recitations of method steps, where the functions are implemented using an unspecified algorithm, sufficient to transform otherwise unpatentable method steps into a patent eligible process, this would exalt form over substance and would allow pre-emption of the fundamental principle present in the non-machine implemented method by the addition of the mere recitation of a "programmed computer." Such a field-of-use limitation is insufficient to render an otherwise ineligible process claim patent eligible. *Bilski*, slip. op. at 15, citing

Diehr, 450 U.S. at 191-92 (noting that eligibility under §101 "cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.").

3. Claim 52 merely cites generating a communication. This could be done by a human being by speaking, singing, playing an instrument, displaying an image on flash cards, etc. There is no indication that the communication is computer-generated via an output device or that any response is received by the computer from a human being via an input device. Claim 52 merely cites that a subscription to a computer service is received for a correct response to a communication, the communication which may or may not be tied to a particular apparatus. Similar considerations apply to Claim 47. Citing the structure of Fig. 1 (Paras. 11-16, of the spec., 2005/0015257 A1) and Fig. 3 (Paras. 25-30), to show how a particular apparatus carries out these claims would be helpful. Citing displaying output to or receiving input from a human being is acceptable as long as a human being is not positively cited as part of an apparatus or system for 101 purposes. Citing how the specific structures of the apparatus perform corresponding specific method steps can serve to tie the method to a particular apparatus. Incorporating these structures from the specification into the method Claims 47 and 52 and showing how these structures serve to perform the respective steps of the method would serve to tie the method claim to a particular apparatus. These are only suggestions. The examiner notes that the test for a concrete, tangible, and useful result is no longer used, but a concrete or tangible action or method step taken by an apparatus structure can serve to tie the claim to a particular apparatus. Exact suggestions are hard to provide, as the examiner is unsure how the applicant will want

to amend the claims in light of Bilski. For typical claims pertaining to a gaming device, the examiner will provide suggestions as accepting a wager from a player via a bill/coin slot or credit/debit card reader on a gaming machine; accepting input from a player via an input device on the gaming machine, such as a slot handle, touchscreen, keyboard, mouse, buttons, joystick, or trackball; manipulating the input data in physical memory by the gaming machine's processor according to the rules of the game stored in memory; displaying the output or game result to the player via an output device on the gaming machine such as a display; and remitting to the player any winning outcome via a bill/coin hopper or credit/debit card writer on the gaming device. Such limitations serve to tie the claim to a particular apparatus by showing how the respective structures of the apparatus carry out the respective steps of the method. The structural limitations must be meaningful to the claim as a whole and not trivial, as outlined above.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 48 to 50 and 52 to 62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims cite common-sense reasoning by the human being to whom the question is being posed. "Common sense" has not been defined by the applicant. As far as the examiner knows, there is no clinical definition for common sense used by psychologists or psychiatrists. The

examiner's Webster's New Riverside University Dictionary, 1984, Riverside Publishing, Houghton Mifflin, Boston, Mass., defines common sense as "the ability to make sound judgments." Such a non-technical meaning practically prevents any technical or scientific definition of common sense. "Common sense" is used by the applicant in Para. 12 (specification 2005/0015257 A1), but is used to help define a human conceptual ability, but the term is not itself defined. Common sense is only otherwise mentioned at Para. 19 in regard to a human being's knowledge of the capability of a defined object. The examiner is not aware of any reason why common sense should be restricted to a human being's knowledge of the capabilities of a defined object. The examiner feels it would be better to limit the claim citations to concern the human being's knowledge of the displayed object's capabilities without citing it as common sense. The examiner believes one of ordinary skill in the art is likely to understand that a computer is very unlikely to be able to answer such a question, as a competent human being most likely could answer a question about an object's capabilities. The examiner believes that the applicant has sufficiently made clear his intent to distinguish a human being from a computer based on the "Background" and "Summary" in the specification. Besides common sense, Para. 12 lists other criteria such as image recognition capability, natural language processing capability, and spoken speech as demonstrating human conceptual ability, so "common sense" does not appear to the examiner to have much patentable weight as to what the applicant is trying to do, and only serves to confuse the claims and make them indefinite.

Election/Restrictions

6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 47 to 64, drawn to a method of determining whether or not a perceptible stimulus was responded to by a human being, classified in class 434, subclass 322.
 - II. Claims 65 to 70, drawn to a data store containing a plurality of stimuli which are used to elicit a response, the response being used to determine whether or not a human being responded to the stimuli, classified in class 434, subclass 307R.

The inventions are distinct, each from the other because of the following reasons:

7. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, Group I is separately usable for similar considerations to the 101 rejections above. No citation is made of the method steps being carried out by a particular apparatus. The stimulus could be provided by a human being speaking, singing, playing an instrument, displaying flash cards, operating a CD player, etc. Similarly, the response by a human being could be recorded on pencil and paper, or audio/video recorded, and the evaluation of whether or not the response was correct, being judged by a human being. Group II is directed to a data storage unit containing a plurality of possible stimuli to be used for carrying out a method of evaluating a human

being's response to stimuli. For these reasons, the two groups are separately usable, requiring separate searches. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly

and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. During a telephone conversation with Paul Horstmann on 11-29-2009 a provisional election was made without traverse to prosecute the invention of Group I, Claims 47 to 64. Affirmation of this election must be made by applicant in replying to this Office action. Claims 65 to 70 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Response to Arguments

22. Applicant's arguments with respect to claims 21-29 and 41-51 have been considered but are moot in view of the new ground(s) of rejection. The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.

Citation of Pertinent Prior Art

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent publications 2007/0196797 A1; 6,361,322 B1; 6,272,458 B1; and 4,980,829 A teach methods of evaluating common-sense reasoning. "Applications of Circumscription to Formalizing Common Sense Knowledge," John McCarthy, Stanford University, 1986, downloaded from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.67.560&rep=rep1&type=pdf>, Dec. 17th, 2009, discusses the difficulties of defining common sense. The Springer Verlag listing for the von Ahn article, downloaded from <http://www.springerlink.com/content/p8t2q8q6bxey8tvx/>, Dec. 17th, 2009, establishes the publication date as Jan. 1st, 2003.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

Art Unit: 3714

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew D. Hoel
Patent Examiner
AU 3714

Peter Vo
Supervisory Patent Examiner
Art Unit 3714

/M. D. H./
Examiner, Art Unit 3714

/Peter D. Vo/
Supervisory Patent Examiner, Art Unit 3714